

MOSER LAW FIRM, PC



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August 22, 2023

**VIA ECF**

Hon. Joan M. Azrack, USDJ  
United States District Court, Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722

Re: *D'Aguino v Garda CL Atlantic, Inc*, Case No. 16-CV-00641 (JMA)(SIL)

Dear Judge Azrack:

I represent the following Plaintiffs in the above referenced matter:

1. Kerem Bay
2. Lana Bongiovi
3. Clement Campbell
4. Alexander Cioffi
5. Angelo Caropola
6. Patrick Crain
7. David L. Cronk
8. *Dennis DeLucie*
9. *Charles J. Engel*
10. Benny Failla
11. *Matthew Farrell*
12. Robert Giani
13. John Lackenbauer
14. Michael McDowell
15. William Maher
16. John Rossi
17. Gary Sobek
18. Damian Sobers
19. Cynthia Torres

I respectfully file this letter motion to withdraw from the representation of the following three (3) individuals: Dennis Delucie, Charles J. Engel, and Matthew Farrell.

Pursuant to Local Civil Rule 1.4 which governs withdrawal of attorneys, “[a]n attorney who has appeared as attorney of record for a party . . . may not withdraw from a case without leave of the Court granted by order. Such an order may be granted only upon a showing by affidavit or otherwise of satisfactory reasons for withdrawal . . . .” Satisfactory reasons include “a client’s lack of cooperation—including lack of communication—with counsel, and the existence of an irreconcilable conflict between attorney and client.” *Diarama Trading Co. v. J. Walter Thompson*

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*U.S.A., Inc.* (DAB), No. 01 Civ. 2950 (DAB), 2005 U.S. Dist. LEXIS 17008, at \*4 (S.D.N.Y. Aug. 12, 2005) (internal quotation marks omitted); *see also Ashmore v. Cgi Grp., Inc.* (AT), No. 11 Civ. 8611 (AT), 2014 U.S. Dist. LEXIS 51618, at \*2 (S.D.N.Y. Apr. 7, 2014) (a breakdown of the attorney-client relationship is sufficient grounds for withdrawal); *Winkfield v. Kirschenbaum & Phillips, P.C.* (JMF), No. 12 Civ. 7424 (JMF), 2013 U.S. Dist. LEXIS 12093, at \*3-4 (S.D.N.Y. Jan. 29, 2013) (irreconcilable differences constitute a satisfactory reason for withdrawal).

As the Court is aware the claims of these three individuals were dismissed with prejudice by the Court's order dated August 16, 2018 (ECF No. 50). Following dismissal, the undersigned was substituted as counsel in place of Ann Ball by docket order dated May 18, 2020 and order dated June 8, 2020 (ECF No. 105).

Despite numerous attempts by this office, we have been unable to reach Charles J. Engel and Matthew Farrell. More specifically, we attempted to reach them by phone on June 13, 2023, July 10, 2023 and August 22, 2023. Messages were left to return our calls. On June 15, 2023 we sent a letter to the last known address of both Charles J. Engel and Matthew Farrell advising them that if we did not hear from them we would withdraw from representation. Neither Charles J. Engel nor Matthew Farrell have been in contact with the undersigned.

With regard to Dennis Delucie, he has specifically informed me that he would not like me to represent him in this action and no longer wishes to speak with me.

For the foregoing reasons, I respectfully request that I be permitted to withdraw from representing Charles J. Engel, Matthew Farrell and Dennis Delucie. We are in the process of preparing a motion to substitute Sara Cioffi, the widow of Alexander Cioffi, in the place of her deceased husband, and anticipate filing same no later than August 25, 2023. Affidavits of service of the within motion upon the client will be filed under separate cover.

Respectfully submitted,

*Steven J. Moser*

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CC: Denis Delucie  
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